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March 31, 1995

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**VIA HAND DELIVERY**

Mr. William F. Caton  
Acting Secretary  
Federal Communications Commission  
1919 M Street, N.W.  
Room 222  
Washington, D.C. 20554

Attn: Stop Code 1200A1  
Cable Services Bureau

Re: Cox Communications, Inc.  
MM Docket No. 92-266

Dear Mr. Caton:

Transmitted herewith are comments of Cox Communications, Inc. submitted in connection with the Commission's consideration of a revision in procedures for adjusting cable television rates.

Sincerely yours,

  
\_\_\_\_\_  
Peter H. Feinberg  
Counsel for Cox Communications, Inc.

Attachments

cc: Gregory J. Vogt, Esq.

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Cox Communications Inc.  
1400 Lake Hearn Drive NE  
Atlanta, GA 30319  
(404) 843-5000

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March 30, 1995

VIA TELECOPY AND HAND DELIVERY

Gregory J. Vogt, Esquire  
Deputy Chief  
Cable Services Bureau  
Federal Communications Commission  
2033 M Street, NW  
Room 920  
Washington, DC 20554

Re: MM Docket No. 92-266

Dear Mr. Vogt:

This letter summarizes the presentation Cox Communications, Inc. ("Cox") made to you concerning the above-referenced proceeding in our telephone conversation of March 29, 1995. Cox was represented by Kathy Payne, Martin Corcoran, Dick Waterman and myself.

Cox understands that the Cable Services Bureau is working on a Tenth Order on Reconsideration in the rate proceeding that might address, among other issues, changes in the process by which cable operators secure approval from local franchising authorities for proposed rate increases in basic service rates. As we discussed, we have experienced three major problems under the current regime.

The first problem is the so-called "regulatory lag" issue, which stems from the fact that there is a substantial period of time between (1) the filing of a basic service rate increase request and (2) the date the requested rate increase actually goes into effect, during which time the operator incurs external costs that it never recovers. Specifically, under the current rules cable operators may not file for external cost rate increases until the quarter following when such costs are incurred. Franchising authorities may then take up to 120 days for a benchmark filing (or 150 days for a cost-of-service filing) to review and approve the increase even though it may be based on routine and easily verifiable figures, such as changes in inflation or FCC user fees. A further regulatory lag exists because once approval of a rate increase is received, the cable operator must give its customers 30 days prior written notice of the rate increase in their bills, which in practice often takes 45 days or longer for the operator to implement. During this entire time, the operator is incurring -- but not recovering -- the increased external costs covered by the rate increase request.

The second problem created by the existing rules is that they encourage operators to take numerous rate increases -- something that the operators, their customers and their local franchising authorities strongly dislike. Ideally, Cox would like to take one rate increase a year; such an approach would avoid customer dissatisfaction with frequent rate increases and also would drastically reduce the paperwork burden on both operators and regulatory authorities. Unfortunately, the current rules make it virtually impossible to file just one yearly increase because they include "use or lose" provisions and because the built-in regulatory lag means that a cable operator must immediately implement a permitted rate increase or forever lose its ability to recoup that revenue from its customers for the time that it delayed the rate increase.

The third major problem that Cox has experienced under the existing rules is that, for systems with multiple franchises, a single franchising authority can prevent the operator from using system-level data. This means that, rather than making one rate increase filing, the operator is forced to make numerous rate requests, even though the difference in the requested rates may only be a matter of a few pennies. For example, Cox's San Diego system has twenty separate franchises and its Phoenix system has nineteen.

Cox has taken a hard look at these problems and has developed a suggested rate increase process which, we believe, would alleviate many of the difficulties and at the same time protect the legitimate interests of consumers and local franchising authorities. As described below, the proposed procedure would be an optional one that a cable operator could choose to follow if it so desired -- should the current system better suit its needs, the operator could stick with it. We believe that the proposed procedure would be very appealing to operators, however, because it would (1) eliminate the regulatory lag issue, (2) result in speedier decisions from local franchising authorities, and (3) enable operators generally to take just one rate increase each year.

The first component of our proposed process is that the franchising authority would have 60 days to review any requested rate adjustment and either approve, disapprove or approve in part the proposed rate adjustments. No extensions to the 60 day review period would be provided and no opportunity to issue an accounting order would be allowed (to ensure finality in the rate decision making process). If a franchising authority denied the rate adjustment in whole or in part, the cable operator could implement the rate change and pursue an expedited appeal at the FCC subject to refund from the date of the rate adjustment, or accept the local franchising authority recommendations. This procedure would give the local franchising authority ample time to review what are typically routine rate increase requests. We also would note that under this streamlined review process, new rates would not be implemented until at least 105 days after filing the rate adjustment request with the local franchise authority (60 day franchising authority review plus approximately 45 days to implement customer notices).

Next, the alternative procedure would enable operators to (1) limit their cable service rate increases to once annually without being financially penalized, and (2) implement a prospective rate adjustment for those cost increases that are known. Operators are aware that certain cost increases, such as programming costs, user fees and cable related taxes will be incurred during the next year. Where such costs are known and verifiable, operators should not be subject to regulatory lag.

The new regulatory process would require the operator to file FCC Forms 1205, 1210 and 1215 after the FCC adopts the new rules. The annual filing would contain a requested increase in rates based upon (1) external costs that the operator had incurred since the filing of its last 1210 plus interest at the Internal Revenue Service refund rate<sup>1</sup>, and (2) prospective known and verifiable external costs, such as programming costs, user fees and cable related taxes for the following year.<sup>2</sup> The cable operator should be permitted to calculate its Form 1205 equipment rates based upon the preceding twelve month period (rather than a strict fiscal or calendar year). Additionally, a cable operator electing the new process should be permitted to calculate inflation retroactively by utilizing the last four quarters of officially published inflation rather than relying on the final GNPPI. Further, a cable operator should be permitted to carry over any portion of its approved rate increase, including inflation, to the following year in the event that the operator determines for competitive or other reasons, the proposed rate adjustment is not advisable.

Additionally, consideration should be given to the addition of new programming services during the year which do not coincide with an operator's annual rate adjustment. Operators should have incentives to add new programming without delay. Channel additions which the operator knows will occur during the next year could be included in the annual rate adjustment on a prospective basis. In the case of must-carry stations and other government mandated channel additions which must be implemented during the year on short notice and within a short time frame, channel additions could be handled at the

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<sup>1</sup> Costs that had been incurred but not yet recovered would be amortized over a reasonable period, such as the twelve months following approval of the rate increase.

<sup>2</sup> The proposed methodology utilizes both a retroactive and prospective element to the rate increase to limit customer "sticker shock" and rate volatility. For example, assume a cable operator incurred additional external costs of \$1.00 per subscriber in January of a given year. It would need to receive \$12.00 from each subscriber by the end of the year in order to recover its costs. If the cable operator delayed a rate increase until July of that year, it would be required to increase each subscriber's monthly rate by \$2.00 in order to recover \$12.00 by year end. Not only would this put the operator at a competitive disadvantage and cause "sticker shock" for its customers, but it would create a potential "roller coaster" effect on rates, when, at the ensuing January, the rate increase could revert back to \$1.00. The ability to include prospective known external costs in the annual rate increase limits this effect.

Of course, some external costs such as inflation cannot be accurately predicted and will thus have to continue to be dealt with on a retroactive basis. The ability to recoup incurred costs through an amortization process, see note 1, addresses the key problem caused by this approach, however.

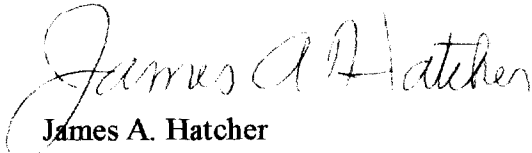
Gregory J. Vogt, Esq.  
March 30, 1995  
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cable operator's discretion as a mid-year rate increase or on a retroactive basis in the annual filing immediately following the channel change.

Enclosed is a timeline for our proposed alternative rate increase regulatory methodology which may make help to visualize this proposal.

Please feel free to contact me if you have any further questions on this issue. We appreciate your time and consideration of our recommendations and, as I mentioned on the telephone, we certainly have renewed respect for how difficult it is to actually develop simple yet accurate rate regulations.

Sincerely,

A handwritten signature in cursive script that reads "James A. Hatcher".

James A. Hatcher  
Vice President  
Legal & Regulatory Affairs

cc: Meredith J. Jones  
Jill Lockett  
Mary P. McManus  
John Nakahata  
Maureen O'Connell  
Lisa B. Smith

## Proposed Alternative Annual Rate Increase Methodology

1st Rate cycle			2nd & Future Rate cycles		
X	X + 60	X + 105	X + 365	X + 425	X + 470
Operator files forms 1205, 1210 & 1215 based upon prior period's actual + highly predictive costs for the prospective year (1)	LFA reviews rate changes within 60 days (a) If LFA approves, operator prepares customer notices (15 days + 30 day notice)  (b) If LFA does not approve or reduces any proposed rate, operator either: (i) Proceeds with changes, subject to refund; or (ii) Adjusts to LFA changes	New rates effective    New rates effective	Operator files forms 1205, 1210 & 1215 based upon prior period's actual + prospective costs (1) + carry forward of any previously approved, but not taken, rates	(a) If LFA approves, operator prepares customer notices (15 days + 30 day notice)  (b) If LFA does not approve or reduces any proposed rate, operator either: (i) Proceeds with changes, subject to refund; or (ii) Adjusts to LFA changes	New rates effective not earlier than 365 days from last increase.   New rates effective not earlier than 365 days from last increase.

(1) Prior period shall equal time period from the last 1210 filing until "X" and actual costs would include: Inflation for the trailing 4 quarters, equipment, franchise related & other allowable costs not previously taken. Prospective costs would include: FCC user fees, known programming cost increases and known taxes. Upon annual 1205, 1210 & 1215 filings, operator shall indicate the portion of its rate adjustment request, if any, it would like to carry over for implementation upon approval of its next annual filing.